IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION (L) NO.158 OF 2006

Nimbus Communications Ltd. ...Petitioners

v/s

Prasar Bharati Broadcasting Corporation of India and anr. ...Respondents

Mr Anil Menon for Petitioners.

None for Respondents.

CORAM : D.K. DESHMUKH J.

DATE : 29TH MARCH 2006.

P.C. :-

1. By this petition filed under section 9 of the Arbitration and Conciliation Act 1996, the petitioners are seeking an interim order restraining respondent No.2 - Oriental Bank of Commerce from permitting the respondent No.1 to encash the bank guarantee. It is an admitted position that so far as the bank guarantee is concerned, the decision of the respondent No.1 about invoking the bank guarantee is final and therefore, in my opinion, no interim order can be made under section 9. If the bank guarantee is wrongly invoked by the respondent No.1, since there is arbitration clause in the contract between petitioners and the respondents, the petitioners may be entitled to recover that amount by referring that dispute to the Arbitrator. In any case, even if the amount is received by the respondent No.1 by invoking the bank guarantee, no irreparable loss or injury is likely to be caused to the petitioners because the petitioners would be entitled to recover the amount from respondent No.1 if the respondent No.1 wrongly invokes he bank guarantee. Petition is therefore rejected.

. Parties to act on the copy of this order duly

authenticated by the Associate / Private Secretary as true copy.

. Certified copy expedited.